

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter Of

Implementation of Section 309(j)  
of the Communications Act -  
Competitive Bidding

)  
)  
)  
)  
)

PP Docket No. 93-253

RECEIVED

SEP - 9 1994

COMMENTS OF THE PERSONAL  
COMMUNICATIONS INDUSTRY ASSOCIATION

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

The Personal Communications Industry Association ("PCIA") herewith submits these comments in support of the Petition for Reconsideration filed by American Personal Communications ("APC") in the above-captioned proceeding.<sup>1</sup> In its Petition, APC urges the FCC to reconsider the adoption of new rule section §24.816 that requires PCS applicants to acquire FCC approval before initiating service from any antenna structure exceeding 200 feet above ground level. PCIA agrees with APC that the provisions of this rule are unnecessary and could delay the introduction of PCS service to the American public. Accordingly, the FCC should reconsider its rationale in adopting this rule for PCS operators and ensure that its policies are consistent with those affecting other mobile carriers.

PCIA surmises that Section 24.816 was intended to simply remind PCS operators of their continued responsibility to notify the Federal Aviation Administration before constructing an

---

<sup>1</sup> Petition for Reconsideration by American Personal Communications, PP Docket 93-253 (filed August 22, 1994) ("APC Petition").

No. of Copies rec'd  
List ABCDE

044

antenna structure in excess of 200 feet.<sup>2</sup> As adopted, however, the rule imposes the new burden for PCS licensees to also obtain FCC approval before commencing service from any tower in excess of 200 feet above ground. This new burden, apparently adopted without required notice and comment, is unnecessary and inconsistent with existing procedures adopted for the cellular radio service.

Section 22.117 allows cellular operators to add new transmitting facilities *without obtaining prior Commission approval*, provided that: (1) the Commission is notified of the new construction through the filing of FCC Form 489, (2) the service contour and the interference contour of the proposed facility are contained within the appropriate service area, (3) FAA approval has been obtained, (4) the station complies with the FCC's environmental rules, and (5) the station is not near the Canadian border.<sup>3</sup> Under these policies, a cellular carrier could initiate service from a new interior cell site exceeding 200 feet above the ground immediately upon receiving FAA approval and filing FCC Form 489.

PCIA contends that a similar approach for PCS is warranted. In so doing, the FCC would be furthering its goals of encouraging the rapid deployment of PCS service throughout America and ensuring regulatory parity among functionally similar commercial mobile service. Most important, since the requirement for FAA

---

<sup>2</sup> 47 C.F.R. §17.7 of the FCC's Rules.

<sup>3</sup> 47 C.F.R. § 22.117(b) of the Commission's Rules.

approval would not be affected, this reconsideration would not compromise air traffic safety. For the foregoing reasons, PCIA urges the Commission to grant the APC Petition for Reconsideration in a manner consistent with the relief discussed herein.

For the foregoing reasons, PCIA urges the Commission to grant the APC Petition and revise its policies concerning the installation of interior PCS base station facilities. This modification will further the dual goals of regulatory parity and effective PCS deployment.

Respectfully submitted,

**THE PERSONAL COMMUNICATIONS  
INDUSTRY ASSOCIATION**

By: Mark J. Golden  
Mark J. Golden  
Acting President  
PERSONAL COMMUNICATIONS  
INDUSTRY ASSOCIATION  
1019 Nineteenth Street, N.W.  
Suite 1100  
Washington, D.C. 20036  
(202) 467-4770

Dated: September 9, 1994

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of September, 1994, I caused copies of the foregoing "Comments of the Personal Communications Industry Association" to be mailed via first-class postage prepaid mail to the following:

A handwritten signature in black ink, appearing to read 'Carol J. Scanlan', with a horizontal line drawn underneath it.

Carol J. Scanlan  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Mr. J. Barclay Jones  
Vice President, Engineering  
American Personal Communications  
1025 Connecticut Avenue, N.W.  
Washington, D.C. 20036